

Section 120. Variances

A. Applicants desiring a variance from a standard shall make such request in writing and address the six criteria listed below in writing. The application shall then be granted an Assent only if the Council finds that the following six criteria are met:

- 1) The proposed alteration conforms with applicable goals and policies in Parts Two and Three of the Coastal Resources Management Program.
- 2) The proposed alteration will not result in significant adverse environmental impacts or use conflicts, including but not limited to, taking into account cumulative impacts.
- 3) Due to conditions at the site in question, the applicable standard cannot be met.
- 4) The modification requested by the applicant is the minimum variance to the applicable standard necessary to allow a reasonable alteration or use of the site.
- 5) The requested variance to the applicable standard is not due to any prior action of the applicant or the applicant's predecessors in title. With respect to subdivisions, the Council will consider the factors as set forth in (B) below in determining the prior action of the applicant.
- 6) Due to the conditions of the site in question, the standard will cause the applicant an undue hardship. In order to receive relief from an undue hardship an applicant must demonstrate *inter alia* the nature of the hardship and that the hardship is shown to be unique or particular to the site. Mere economic diminution, economic advantage, or inconvenience does not constitute a showing of undue hardship that will support the granting of a variance.

B. In reviewing requests for buffer zone variances for subdivisions of five (5) lots or less, the Council will review on a case-by-case basis the extent to which the prior action of the applicant or its predecessor in title created or caused the need for a variance, whether the applicant has created the need for a variance by the subdivision and whether the subdivision complies with local zoning requirements.

C. Relief from a standard does not remove the applicant's responsibility to comply with all other Program requirements.

D. Prior to requesting approval for a CRMC variance, in those instances where a variance would be obviated if a variance for a setback were acquired from the local municipality, the applicant must first exhaust his remedies before the local municipality.